

Portugal

Last update: April 2013

PART 1 – NATIONAL FRAMEWORK

Overview

National social dialogue	Principal Level of Collective Bargaining	Industry but enterprise negotiations to be given greater importance	
	Workplace Representation	Union (and works council)	
	Board-level Representation	yes (state-owned enterprises (law is not implemented))	
National worker representation	The main channels of employee representation at workplace level are the workers' commissions, shop stewards and trade union committees at workplace and the workers' representatives for safety, hygiene and health at the workplace.Workers' Commissions and trade unions are protected by constitutional law. Although in theory there are two main channels of workplace representation of employees for most issues (through the workplace union representatives and through an elected works council), in practice works councils are relatively rare. They normally only exist in large enterprises where unions are strong. The rights of both are limited to information and consultation, with no opportunity to block management decisions.		
Principal legal documents on H&S	The main health and safety statute is the 1971 General Regulation on occupational health and safety in industrial establishments. This was amended by the Ministerial Order of September 1980. Since 1982, workers' and employers' organisations have participated in defining and assessing government health and safety policy in the context of the National Occupational Health and Safety Council. The 1989 Framework Directive has been transposed by the Legislative Decree of November 1991 on the basic principles of safety, hygiene and health at workplaces, as amended by a legislative decree of April 1999.		
Public authorities on H&S	Ministry of Employment and Social Security. The Authority for Working Conditions (Agência para as Condições de Trabalho, ACT) has the mission to enforce the labour law.		
Employers' obligations on H&S	The employer must organize safety and health activities, to allow the employees to benefit from an adequate level of protection at the workplace.		
Worker representative bodies on H&S	Employee safety, hygiene and health representatives are elected in all undertakings. The number of representatives varies between one (for undertakings with fewer than 61 workers) and seven (for undertakings with more than 1,500 workers). A number of collective agreements provide for the creation of health and safety committees and define their responsibilities. The tasks, powers and composition of these committees are not specified. Indeed, they are not covered by any specific legislation.		
Organisation of the social dialogue on H&S issues within the country	<i>Actors involved</i>	<i>Their role</i>	<i>Scope of influence</i>
	União Geral de Trabalhadores (UGT – P)	Central trade union. Information, proposal, consultation, negotiation, co-decision. Participation in the discussion, definition, implementation and monitoring of professional risks prevention policies.	National level
	Confederação Geral dos Trabalhadores Portugueses – (CGTP-IN)	Information, proposal, consultation, negotiation, co-decision. Participation in the discussion, definition, implementation and monitoring of professional risks prevention policies.	National level
	Confederação do Comércio e Serviços de Portugal (CCP) – Portuguese Trade and Services Confederation	Employers' organisation. Information, proposal, consultation, negotiation, co-decision. Participation in the	National and branch level

		discussion, definition, implementation and monitoring of professional risks prevention policies.		
	Confederação Agricultores de Portugal (CAP) - Portuguese Agricultural Confederation	Information, proposal, consultation, negotiation, co-decision. Participation in the discussion, definition, implementation and monitoring of professional risks prevention policies.	National and branch level	
	Confederação Empresarial de Portugal (CIP) - Portuguese confederation of Business	Information, proposal, consultation, negotiation, co-decision. Participation in the discussion, definition, implementation and monitoring of professional risks prevention policies.	Branch level	
	Confederação do Turismo Portuguesa (CTP) - Portuguese Confederation of Tourism	Information, proposal, consultation, negotiation, co-decision. Participation in the discussion, definition, implementation and monitoring of professional risks prevention policies.	National and branch level	
	The Standing Committee for Social Concertation (CPCS, Comissão Permanente de Concertação Social)	Unions are represented by CGTP-IN and UGT, and employers by CIP, CCP, CAP and CTP. The CPCS is formally part of the Economic and Social Council (Conselho Económico e Social, CES). Les questions de SST, ne sont jamais abordé séparément, mais dans le cadre du code du travail quand celui-ci est abordé ou revu. Les rendus servent souvent de base pour des accords collectifs sectoriels. En plus de l'information que le Gouvernement fait sur ses propositions, le dialogue est souvent restreint et les propositions des syndicats sont peu souvent acceptées. Il y a eu un Accord Tripartite en Février 2001 sur la SST.	National et intersectoriel	
	Le Conseil Consultatif pour la Promotion de la Santé et Sécurité au Travail	Composé des représentants des syndicats et du patronat, (membres du CPCS) et du Ministère du Travail. Les membres du Comité Consultatif ont un léger pouvoir d'influence sur la gestion de l'ACT - Autorité pour les Conditions de Travail, concernant les Programmes Annuels de Promotion et d'appui pour la de la SST au niveau de Portugal, mais pas sur la partie de l'Inspection du Travail qui est une deuxième branche sous la responsabilité de l'ACT.	National et intersectoriel.	
Specialized H&S bodies on regional, sectorial or another level	Name	Setup conditions	Composition	Role and functions
	Working Conditions Authority (ACT)	The OSHA national focal point, tripartite body under the direct administration of the State Ministry of	National	N/R

		Economy and Employment but endowed with administrative autonomy in all the mainland territory. The ACT's main mission is to promote the improvement of		
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PART 2 – ENTERPRISE LEVEL: ORGANISATION OF SOCIAL DIALOGUE AND WORKERS' PARTICIPATION ON H&S AT WORK

General organisation and role on H&S issues	<p>Since 2005 employees have the right to elect workers' representatives for safety, hygiene and health at the workplace (RT SST– Representantes dos trabalhadores para a segurança, higiene e saúde no trabalho). The labour legislation guarantees information and consultation rights for these representatives. They have the right to meet with the management at least once a month to discuss and analyse OSH issues. The legislation only defines the election of RTs SST and opens the way to the establishment of joint committees through Collective Bargaining. Moreover, a number of collective agreements provide for the creation of health and safety committees, consisting of RTs SST and representatives of employers. The tasks, powers and composition of these committees are not specified. Indeed, they are not covered by any specific legislation. In this sense, only through collective bargaining is possible to establish joint committees by enterprise or reach an election of REP's by branch or, of joint committees within the same enterprise or "regionally", where appropriate. These committees are mainly an information et bargaining channel, as final decisions are left to the employer. They are often composed by the RTs SST(respecting the principle of proportionality).</p> <p>Finally, an employer may always appoint a H&S responsible (no specific qualifications are necessary) and a 'H&S designated employee' (with qualifications in OSH) to represent him.</p>
Interaction of H&S representation with the general representation of workers	<p>As from 50 employees, Workers' Commissions (Comissão de Trabalhadores, CT) are elected by all employees at a enterprise. The number of members of the CT varies according to the number of workers in the enterprise. The CTs have information and consultative rights, particularly in relation to processes of restructuring, in setting up plans and reports on VET, and in relation to changes in working conditions. They do not have decision power. In the absence of H&S employee representatives (RTs SST), the members of the CT can assume their role. In contrast to trade unions, workers' commissions are not associative in nature; they are the legally representative bodies for an enterprise's entire workforce. Next to the CT, the trade union delegate might also ask for information or raise questions on OSH. However, he also does not take part in the decision process.</p>
Worker representation bodies on H&S at work	
<i>Implementation of worker representation in H&S on enterprise level</i>	All workers, regardless of whether or not they belong to trade unions.
<i>Thresholds of implementation</i>	<p>Unless stipulated differently through collective agreement, the number of representatives to be elected depends on the number of enterprise employees:</p> <ul style="list-style-type: none"> – less than 61 workers – 1 RT (i.e., Worker's representative); – 61–150 workers: 2 RTs; – 151–300 workers: 3 RT's; – 301–500 workers: 4 RTs; – 501–1000 workers: 5 RTs; – from 1001 to 1500 workers: 6 RTs; – with over 1500 Workers: 7 RTs. <p>Collective bargaining makes it possible to expand the number of enterprise's RT 'SST. There are already some collective agreements that shape these provisions.</p>
<i>Role of the trade unions</i>	<p>Regarding the role of unions among RT'SST, they play an active role on:</p> <ul style="list-style-type: none"> – Training and ongoing information of RT 'SST, through the development of training activities and production of information materials and creating awareness

	<p>to OSH issues;</p> <ul style="list-style-type: none"> – Direct support to the election process triggered in the workplace (in practice, it are often the trade unions that are the driving force behind elections); – To support the legal services in case of conflict, either during the election process or during the developing activities (participation and representation); – To support the effective activity of RT 'SST in workplaces by establishing plans of action and prevention; – To request the intervention and monitoring of labor inspectors (ACT and DGS) whenever any irregularity occurs.
<i>Composition, mode of nomination or election of members</i>	<p>A Safety representative (RT SST) is appointed or elected in each enterprise or production unit, according to different rules depending on the number of employees (more or less than 15 employees, in accordance with the Workers' Statute - 1970). These representatives must be elected directly by a secret ballot of all workers from lists put forward by the trade unions or at the initiative of at least 20% of the workers in the undertaking. Electoral processes might be triggered by union structures, however a still significant number is the result of electoral processes driven by enterprise workers (mainly in enterprises without union representation). The number of representatives varies between one (for undertakings with fewer than 61 workers) and seven (for undertakings with more than 1,500 workers). They are elected for 3 years.</p> <p>The RT OSH committee's composition is determined by Hondt method. No worker can integrate or subscribe to more than one list. Each list has to provide as many effective candidates as substitute candidates according to the number of enterprise employees. The Law provides a variety of stipulations regarding to the organisation and communication of the election process.</p>
<i>Area of competencies</i>	<p>All aspects of OSH. The main mission of RT 'SST is to ensure the defense of workers' rights in relation to health and safety in workplaces, namely by requiring compliance with legal obligations for the prevention of occupational risks and workers' health promotion. RT'SST also develops an ongoing work on health and safety compliance rules as well as counseling. Thus, the scope of action of RT'SST is extended by integrating provisions on prevention of occupational risks (information consultation and proposal), work accidents and occupational diseases (information and consultation rights), claiming the rights of workers (right to claim), among others. One more point, the RT'SST sphere of action relates only to matters to the prevention of occupational risks. Working or environmental conditions not directly related to OSH are not their responsibility.</p>
<i>Functions</i>	<p>Inform, consult, propose, control</p> <p>The main roles of the RT's SST are the following:</p> <ul style="list-style-type: none"> – Active participation in occupational risks prevention (information, consultation, training and proposal) to demand and defend workers' rights with regard to safety and health in the workplace; – Requirement of compliance with rules regarding occupational risks prevention and safety and health, as well as, promoting workers health by the employer. – Monitor the implementation of workers' rights; – Ensure participation and dialogue aiming development of safety and health at workplace; – Pronouncing up and propose measures designed to prevent occupational risks. <p>To do so, RT'SST have the following functions:</p> <ul style="list-style-type: none"> –To interpret and follow the OSH information that is provided to employees in relation to health and safety risks and respective preventive measures related to the enterprise, job and function, particularly concerning measures and instructions in case of serious and imminent danger: first aid, firefighting, workers evacuation in the event of accident ; – Delivering information on occupational hazards; clarifying permanent workers about their rights (OSH) and the most appropriate way to use those rights for better working conditions; – Consultation which means the right to be consulted on a wide range of issues ranging from professional assessment risk to preventive measures and protection and the issuance of the respective opinion on the part of employees or employee representatives. – Right to proposal, which means the right to submit proposals for improvement of OSH aimed at the elimination or reduction of occupational risks, as well as, make remarks during the inspection visits of ACT (Working Conditions Authority), or other competent authority and make other necessary remarks during these visits; –To request the intervention of ACT (WCA) or other competent authority, if the

	<p>measures adopted and the facilities provided by the employer are insufficient to ensure the safety and health at work;</p> <ul style="list-style-type: none">- To monitorize, means the right to meet, at least once a month, with the enterprise management to discuss and analyze issues related to SST, as well as, to consult relevant documents such as: risk assessment; previous analysis of the measures on health and safety; annual list of accidents with more than 3 days incapacity and, other documents that assess the development of Safety and Health conditions (collective not individual medical data and information from the technical inspection services and other agencies in the area of security , hygiene and health at work).	
Rights of workers' representatives on H&S		
Right of withdrawal, of production stop in case of immediate danger	No (individual right)	
	<p>The Portuguese legislation is ambiguous on this workers fundamental right (individually or collectively). Hence, this right is also not defined for the RT SST. In any case, note that the law determines that in the event of serious and imminent danger, one individual must proceed as follows:</p> <ul style="list-style-type: none">-To contact immediately the person in charge (boss, in charge, division director, department or service, etc.), alerting to the situation;- If this is not possible, contact those responsible for prevention and protection;- If this contact fails, contact immediately an hierarchical superior or other responsible for the prevention and protection, should the employee must act 'motu proprio', adopting measures and instructions for such a situation;- Only then, and in the latter case, facing a serious and imminent danger which cannot be avoided, the worker can move away from his/her workstation or a dangerous area.	
Right to conduct surveys	Yes	
	<p>RT'SST may use different tools at their disposal in order to assess the conditions of H&S. Given that all activity should be planned and the program REP's should devise an action plan based on needs after the risk assessment, identification and evaluation, as well as to claim for prevention and protection. Therefore, one of the first steps to take is to conduct a need assessment on safety and health at work. To collect all the necessary information, REP's should use several sources and tools in order to cross information, and to achieve a sustained and real knowledge about the H&S conditions. Possible data collection instruments are:</p> <ul style="list-style-type: none">- Checklists based on legislation;- questionnaire replys / interview about working conditions;- Map of risks;- Other instruments	
Right to require external assessments	No	
	<p>It has not been stipulated by law, as this is a practice not much applied in our country. Anyway, in case of need, the RT' SST can request support from specialists in H&S issues working for trade union structures. There already are RTs qualified with a certificate of professional competence (APC) as safety technician .</p>	
Right to lodge an appeal	Yes	
	<p>The Labour Code states that a RT SST may ask Labour Inspection to intervene if the enterprise does not guarantee the H&S of the workers. Hence, one has the right to seek the intervention of ACT or other competent authority, (only) if the adopted measures and facilities provided by the employer are still insufficient to ensure the safety and health in the workplace.</p>	
Right to receive training	Yes	
	Portuguese legislation recommends that permanent training for RTs SST must be ensured by the employer.	
	Amount of training	In order to accomplish this goal, employers have to provide conditions for REP's to be trained; To this effect REP's may enjoy a leave for training, with or without compensation, accordingly to whether or not the entity grants or assign specific training; Unions promote basic training for REP's, providing them with technical capacity to develop their activity/ participation.
	Frequency of training	This is not stipulated in the law regarding RT SST, but the legislation on occupational training within enterprises

		defines 35 hours of training per year for each worker (and not only representatives).
	<i>Training providers</i>	Usually, unions are developing RTs SST training relying on relevant entities, including the ACT (Authority for Working Conditions). Training can be provided by a state certified training institute (also the course are certified). Some large enterprises have already integrated into their annual training plans specific actions targeting RTs SST; however, this is a yet insignificant in our country.
<i>Allocated time during working hours to conduct their role</i>	Yes	For the development of participation and representation activities, the RTs have a credit of 5 hours per month that cannot be combined with other time credits due to integrating other structures representing workers. This credit is provided during normal working hours and is considered (and paid) as effective working time. Collective bargaining makes it possible to expand the credit hours that RT's SST have for the exercise of their activities. There are already collective bargaining agreements that formulate more favorable provisions, i.e., recognizing an increase in the monthly credit hours (7 to 10 hours per month). The RT needs to inform the employer at least 48 hours before using his credit.
<i>Protection against sanctions, dismissals in the frame of their mandate</i>	Yes	Employees who are members of unions or of workers' committees have special protection with respect to dismissal and workplace transfers. The Law prohibits dismissal of a safety representative (RT) or a candidate RT within a period of 3 years. More specifically, RTs have the following legal protections: <ul style="list-style-type: none"> – Right to justified absences – RT's absences are justified when the credit exceeds 5 hours, counting for effective work time but aren't eligible for remuneration. – Right to protection in the event of dismissal or disciplinary procedure. If as a result of disciplinary proceeding is determined REP's preventive suspension that does not prevent his/her access to local activities during the exercise of RT functions. The injunction to suspend the dismissal is only ordered if the judge conclude that there a strong probability of just cause. – Right to protection in case of transfer – RTs cannot be transferred from workplace without their consentiment, unless it is the result of total or partial change of the establishment where they work.
Link and the nature of the relations between the employee representatives and the trade unions	<p>The RT SST has an individual responsibility, is autonomous and does not depend on the trade union delegation. Nevertheless, in most enterprises with RTs SST, the trade unions have triggered the election process through their trade union delegates. Hence, the election lists are often constituted of workers that are trade union members and interact with the existing trade union delegation in the enterprise. Moreover, the development of the RT SST' activity may report to the trade union action plan defined for the activity sector or enterprise.</p> <p>In cases of repeated non-compliance with the obligations by the employer, if RTs SST within their reclaiming frame, cannot remedy these shortcomings, the union's role is to demand inspective intervention. Note that the law provides no collective structure that integrates workers' representatives. According to UGT, this fact makes the RT'SST often feel lonely in their representative activity. Thus, UGT has worked with OSH representatives to organize themselves collectively and initiate, with the support of the union that elected them, organize and establish joint strategies for intervention.</p>	

PART 3 – ASSESSMENT OF THE SOCIAL DIALOGUE AND WORKERS' PARTICIPATION IN THE COUNTRY

Evolution

Significant changes within the various instruments on H&S issues during the last 5 years	Yes	
	<i>Objectives of these changes</i>	The main change is that since 2008, global policy instrument to promote safety and health at work have been implemented. As such, the National Strategy for Safety and Health at Work 2008/2012 aims to bring all aspects defining the promotion and prevention of H&S into one single document. Before, all the different aspects were defined by separate legal systems. This strategy was, from the beginning, supported by the Social Partners, mainly because it focuses on an area that was, in recent years, uncovered regarding the effective implementation of global policies for the prevention of occupational hazards and accidents. However, according to UGT, this situation didn't arise from a lack of instruments of national policy in this area, but rather from its almost total failure (we refer necessarily to the Agreement on Conditions of Work, Health and Safety at Work Act 2001). On 1 August 2012, the new labour code launched by Portugal's centre-right wing coalition government came into force, bringing with it radical changes in labour relations. Changes included new rules to make it easier for enterprises to dismiss workers, reductions in severance pay, a reduction by 50% in overtime payments, a cut in paid holiday entitlement, and the abolition of four public holidays. The new code also imposed restrictions on collective bargaining, stipulating that for the next two years collective bargaining cannot negotiate more favourable terms.
	<i>Management of these changes</i>	The government adopted the law 102/2009 on the promotion and prevention of H&S (LPPSST). This law includes questions relating to OSH, as well as election conditions of RTs SST (H&S representatives). The implementation of a National Strategy on OSH implied
	<i>Effects on the improvement or deterioration of the handling of these issues</i>	Trade unions indicate the tendency amongst enterprises is to observe the law at a minimal level or not at all. Hence, employers rather prefer to pay fines than to invest in OSH. For example, even if the number of accidents at the workplace lowers each year, the number of deadly accidents does not lower at the same pace. Nevertheless, some improvements were also recorded. Especially with regard to prevention services in business, training provided, the accreditation of technical OSH and the creation of supporting documentation for the various sectors of activity.
Assessment of the achievements on H&S issues through social dialogue	Deteriorating	
	<i>Some important milestones</i>	Given the current economic downturn, trade unions have noted a disinvestment in preventing that translates into increased labor accidents, particularly deadly. Since the new

		Labour Code (2001), collective bargaining has become more difficult according to trade unions. Moreover, in many sectors, employers prefer to avoid social dialogue and do not prolong collective agreements. Nevertheless, Portuguese law transposes Community Directives and key ILO Conventions on this subject.
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Perspectives to achieve a good social dialogue and workers' participation on H&S issues

Missing factors	<ul style="list-style-type: none"> - A new Labour Code that (re)places value in collective bargaining and that is more constraining towards enterprises to comply with the Law on promotion and prevention of OSH. - Training, accompanied by appropriate instruments and tools, is a critical aspect to improve and broaden the participation of workers and their representatives on OSH, and to improve their performance in this area. - One strong obstacle concerns the transposition of the directive on the specific issue of RTs SST. The way the EU Framework Directive was transposed into Portuguese law wasn't correct according to the trade unions, since the RT's are elected by the enterprise as a whole and not per establishment. In this perspective, taking into account that the maximum number of RTs to be elected in enterprises with more than 1500 workers is 7, this situation constitutes a major barrier to the preventive action of these agents.
Existing key success factors	<ul style="list-style-type: none"> - Training of enterprise management on OSH in order to see prevention as an investment rather than as a cost. - Solving the problem of low salaries might also promote attention towards OSH. - Proper tools should be designed, in order to better carry out RTs activities regarding representation and participation.

PART 4 – APPENDICES

Glossary

RT	<i>employee representative</i>
LPPSST	<i>Law on the promotion and prevention of OSH</i>
SST (Segurança e Saúde no Trabalho)	<i>Health & Safety / OSH</i>
RT' SST (Representantes dos Trabalhadores para a Segurança e Saúde no Trabalho)	<i>H&S employee representatives</i>

Interesting links

<i>Working conditions Authority (http://www.act.gov.pt/);</i>
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Sources

Trade union contacts	CGTP-IN	CASULA Giorgio
	UGT -P (União Geral de Trabalhadores)	TAVARES Catarina
Other	<ul style="list-style-type: none"> - http://www.worker-participation.eu - Questionnaire replies (2) - Eurofound - EU OSHA 	